

REFERENCE TITLE: dyed diesel; civil penalties; liability

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1099

Introduced by
Senator Verschoor

AN ACT

AMENDING SECTIONS 28-5645 AND 28-5647, ARIZONA REVISED STATUTES; RELATING TO MOTOR FUEL TAXES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-5645, Arizona Revised Statutes, is amended to
3 read:

4 28-5645. Dyed diesel use; violation; classification

5 A. A person shall not operate or maintain a motor vehicle on any
6 highway in this state with use fuel contained in the fuel supply tank for the
7 motor vehicle that contains dye as provided under section 28-5610, subsection
8 A, paragraph 8.

9 B. This section does not apply to:

10 1. Persons operating motor vehicles that have received use fuel into
11 their fuel tanks outside of this state in a jurisdiction that permits
12 introduction of dyed diesel fuel of that color and type into the fuel tank of
13 highway vehicles.

14 2. Uses of dyed diesel fuel on the highway that are lawful under the
15 United States internal revenue code and regulations issued under the United
16 States internal revenue code and THAT ARE EXEMPT FROM MOTOR FUEL TAXES as set
17 forth in section ~~28-5716~~ 28-5610 unless otherwise prohibited by this article.

18 3. A person operating a motor vehicle pursuant to section 28-5649.

19 C. Any person who knowingly violates or knowingly aids and abets
20 another person in violating this section with the intent to evade taxes
21 imposed pursuant to this article is guilty of a class 1 misdemeanor.

22 Sec. 2. Section 28-5647, Arizona Revised Statutes, is amended to read:

23 28-5647. Dyed diesel; prohibited acts; civil penalties; joint
24 and several liability

25 A. Except as provided in section 28-5649, a person shall not sell or
26 hold for sale dyed diesel fuel for any use that the person knows or has
27 reason to know is not a nontaxable use of the fuel.

28 B. A person shall not use or hold for use any dyed diesel fuel for a
29 use other than a nontaxable use if the person knew or had reason to know that
30 the fuel was so dyed.

31 C. A person shall not wilfully, with intent to evade tax, alter or
32 attempt to alter the strength or composition of any dye or marker in any dyed
33 diesel fuel.

34 D. ~~A business entity and each officer, employee or agent of the entity~~
35 ~~who wilfully participates in any act in violation of this section are jointly~~
36 ~~and severally liable with the entity as follows:~~

37 1. ~~For a penalty of one thousand dollars for each occurrence or ten~~
38 ~~dollars per gallon of dyed diesel involved, whichever is more.~~

39 2. ~~For multiple offenses, the amount prescribed in paragraph 1 shall~~
40 ~~be multiplied by the number of occurrences.~~

41 D. ANY PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL PENALTY
42 AS FOLLOWS:

43 1. ONE THOUSAND DOLLARS OR TEN DOLLARS PER GALLON OF DYED DIESEL
44 INVOLVED, WHICHEVER IS GREATER, FOR EACH VIOLATION. FOR THE PURPOSES OF THIS
45 PARAGRAPH, THE NUMBER OF GALLONS OF DYED DIESEL INVOLVED EQUALS THE CAPACITY

1 OF THE FUEL SUPPLY TANK OR THE STORAGE TANK CONTAINING THE DYED DIESEL MINUS
2 THE NUMBER OF GALLONS OF DYED DIESEL REMAINING IN THE FUEL SUPPLY TANK OR
3 STORAGE TANK WHEN THE VIOLATION IS DISCOVERED.

4 2. FOR MULTIPLE VIOLATIONS, THE CIVIL PENALTY SHALL BE THE AMOUNT
5 PRESCRIBED IN PARAGRAPH 1 MULTIPLIED BY THE NUMBER OF PRIOR CIVIL PENALTIES
6 IMPOSED BY THIS SECTION ON THE PERSON OR A RELATED PERSON OR ANY PREDECESSOR
7 OF THE PERSON OR THE RELATED PERSON.

8 E. FOR THE PURPOSES OF SUBSECTION D OF THIS SECTION, "DYED DIESEL"
9 MEANS ANY DYED DIESEL FUEL, WHETHER OR NOT THE FUEL WAS DYED PURSUANT TO THE
10 UNITED STATES INTERNAL REVENUE SERVICE REGULATIONS OR REQUIREMENTS.

11 F. IF A CIVIL PENALTY IS IMPOSED UNDER THIS SECTION ON ANY BUSINESS
12 ENTITY, EACH OFFICER, EMPLOYEE OR AGENT OF THE ENTITY WHO WILFULLY
13 PARTICIPATES IN ANY ACT GIVING RISE TO THE PENALTY SHALL BE JOINTLY AND
14 SEVERALLY LIABLE WITH THE ENTITY FOR THE PENALTY.